

THIS OPINION WAS NOT WRITTEN FOR PUBLICATION

The opinion in support of the decision being entered today (1) was not written for publication in a law journal and (2) is not binding precedent of the Board.

Paper No. 21

UNITED STATES PATENT AND TRADEMARK OFFICE

BEFORE THE BOARD OF PATENT APPEALS
AND INTERFERENCES

Ex parte GARY H. KNAUF

Appeal No. 1997-1516
Application No. 08/326,501

ON BRIEF

Before KIMLIN, WARREN, and OWENS, Administrative Patent Judges.

KIMLIN, Administrative Patent Judge.

DECISION ON APPEAL

This is an appeal from the final rejection of claims 1-10. Claim 11, the other claim remaining in the present application, stands withdrawn from consideration.

Claims 1 and 2 are illustrative:

1. A release liner carrier web, for dispensing die cut film labels onto a surface, comprising:

Appeal No. 1997-1516
Application No. 08/326,501

(a) a paper substrate having a front side and a back side;

(b) a polypropylene coating layer located on said front side of said paper substrate; and

(c) a protective sealant layer selected from the group consisting of a soap based acrylic resin, polyvinylidene dichloride and polyvinyl alcohol located on said back side of said paper substrate.

2. A release liner comprising:

(a) a paper substrate having a front side and a back side;

(b) a polypropylene coating layer located on said front side of said paper substrate;

(c) a silicone coating layer located on said polypropylene coating layer; and

(d) a protective sealant layer selected from the group consisting of a soap-based acrylic resin, polyvinylidene dichloride and polyvinyl alcohol located on said back side of said paper substrate.

In the rejection of the appealed claims the examiner relies upon the following references:

Groff et al. (Groff)	3,118,534	Dec. 16,
1959		
Keeling et al. (Keeling)	3,896,249	Jul.
22, 1975		
Hosoda et al. (Hosoda)	4,609,589	Sep. 02,
1986		

Appeal No. 1997-1516
Application No. 08/326,501

Fagan 4,783,354 Nov. 08,
1988

Appellant's claimed invention is directed to a release liner carrier web comprising a paper substrate, a polypropylene coating on one side of the substrate, and a protective sealing layer, such as an acrylic resin, on the other side of the substrate. Appealed claim 2 additionally recites a silicone release layer on the polypropylene layer. According to appellant, the sealant, or undercoat, layer "traps loose fibers of the paper substrate and

prevents them from clogging machinery associated with the production or handling the release sheet." (page 3 of principal brief). In addition, appellant explains that the protective sealant layer "promotes ready peelability of a suitable label from the present release sheet" by seeping through the substrate and contacting the silicone release layer (page 3 of principal brief).

Appealed claims 1, 2, 6, 8 and 9 stand rejected under 35 U.S.C. § 102(b) over Hosoda. The appealed claims also stand rejected under 35 U.S.C. § 103 as follows:

Appeal No. 1997-1516
Application No. 08/326,501

- (a) Claims 1, 2, 6, 8 and 9 over Hosoda;
- (b) Claims 1-10 over Hosoda in view of Fagan;
- (c) Claims 1-10 over Keeling in view of Groff.

Both appellant and the examiner agree that all the appealed claims stand or fall together. However, inasmuch as the examiner gives separate treatment to independent claim 2, which includes a feature not recited in independent claim 1, we will separately address the patentability of claim 2. Accordingly, claims 1 and 3-10 stand or fall together.

We consider first the rejection of claims 1, 2, 6, 8 and 9 under § 102 over Hosoda. We will not sustain this rejection because Hosoda does not specifically describe a polypropylene coating layer on a paper substrate as required by the appealed claims. The examiner refers to the reference teaching that the support sheet may "include a paper base, non woven fabrics, polymeric films and metal foils. These may be used either alone or in the form of a lamination thereof" (column 3, lines 13-16). Hosoda further discloses that polypropylene may be a suitable polymeric film (column 3, lines 24-27). However, Hosoda neither exemplifies nor expressly discloses an

embodiment wherein a paper base is coated with polypropylene. While it may be argued that the reference disclosure would have suggested a paper base coated with polypropylene, such a suggestion is not tantamount to the description required by 35 U.S.C. § 102. In re Schaumann 572 F.2d 312, 316, 197 USPQ 5, 9 (CCPA 1978). Accordingly, we will not sustain the examiner's § 102 rejection.

We next consider the examiner's rejection of claims 1, 2, 6, 8 and 9 under § 103 over Hosoda. We will sustain this rejection as it pertains to claims 1, 6, 8 and 9. In our view, Hosoda's disclosure at column 3, lines 12-16 would have suggested a lamination comprising a polypropylene film coated on a paper base and, as pointed out by the examiner, Hosoda also discloses that either side of the base may be coated with an acrylic resin.

While appellant urges that, unlike the present invention, Hosoda discloses that the acrylic undercoated layer is situated between the release layer and the support, the "comprising" language of claim 1 renders it "open" to the additional layers disclosed by Hosoda and, furthermore, claim

1 fails to recite any release layer. We agree with the examiner that the embodiment depicted in figure 1 of Hosoda meets the claim requirements for a paper substrate having one side coated with a polypropylene layer and the other side with an acrylic sealant layer. Also, although appellant submits that Hosoda "does not contain a soap-based acrylic resin coating layer placed on the opposite side of the substrate from the release layer" (page 6 of principal brief), the examiner correctly notes that appealed claim 1 fails to recite either a soap-based acrylic resin or a release layer.

We will not sustain the examiner's rejection of claim 2 under § 103 over Hosoda because the reference does not teach or suggest the required "silicone coating layer located on said polypropylene coating layer." Rather, Hosoda discloses that the silicone coating layer is located on the acrylic undercoat layer.

We now turn to the examiner's rejection of claim 1-10 under § 103 over Hosoda in view of Fagan. Inasmuch as we have

sustained the examiner's rejection of claim 1 over Hosoda, taken alone, it follows that we will also sustain the examiner's rejection of claims 1 and 3-10 over Hosoda in view of Fagan.¹ Also, since Fagan does not remedy the aforementioned deficiency of Hosoda to teach or suggest a silicone coating layer located on the polypropylene layer, as required by appealed claim 2, we will not sustain the examiner's rejection of claim 2 over Hosoda in view of Fagan.

Finally, we will not sustain the examiner's rejection of claims 1-10 under § 103 over Keeling in view of Groff. In essence, we concur with appellant that Groff's disclosure of a pressure sensitive adhesive comprising polypropylene would not have made obvious to one of ordinary skill in the art the substitution of polypropylene in the polyethylene/paper laminate of Keeling. Insofar as the polyethylene in the paper/polyethylene laminate of Keeling is not a pressure sensitive adhesive, it would not have been obvious for one of ordinary in the art to employ any pressure sensitive adhesive in the backing sheet laminate of Keeling.

¹ As noted earlier in the decision, claims 3-10 stand or fall together with claim 1.

Appeal No. 1997-1516
Application No. 08/326,501

As a final point, regarding the § 103 rejections of claims 1 and 3-10, which we have sustained based upon Hosoda, appellant bases no argument upon objective evidence of nonobviousness, such as unexpected results.

In conclusion, since we have sustained the examiner's rejections under 35 U.S.C. § 103 of claims 1 and 3-10 and have reversed all the examiner's rejections of claim 2, the examiner's decision is affirmed-in-part.

No time period for taking any subsequent action in connection with this appeal may be extended under 37 CFR § 1.136(a).

AFFIRMED-IN-PART

EDWARD C. KIMLIN)	
Administrative Patent Judge)	
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)	BOARD OF PATENT
CHARLES F. WARREN)	APPEALS
Administrative Patent Judge)	AND
)	INTERFERENCES
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Appeal No. 1997-1516
Application No. 08/326,501

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Appeal No. 1997-1516
Application No. 08/326,501

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